

12-23-05

CofC



Attorney Docket No.: 2100/US/2  
Express Mail Label No.: EV 683300497 US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant	: Wagner et al.	Patent No.	: 6,971,433 B2
Appln. No.	: 10/645,264	Issue Date	: December 6, 2005
Filed	: August 20, 2003	Confirmation No.	: 7339
Title	: AUTOMATIC RETRACTABLE AWNING	Group Art Unit	: 3634
		Examiner	: Purol, David M.

## CERTIFICATE OF MAILING BY EXPRESS MAIL

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450


Sir:

The undersigned hereby certifies that the following documents:

1. Request for Certificate of Correction (2 pages);
2. Certificate of Correction (1 page);
3. Copy of Supplemental Notice of Allowability (3 pages);
4. Copy of Response to Office Action of November 11, 2004 (8 pages);
5. Certificate of Mailing by Express Mail (1 page); and
6. Return Card

relating to the above application, were deposited as "Express Mail" under 37 CFR § 1.10, Mailing Label No. EV 683300497 US, with the United States Postal Service addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 22, 2005.

Certificate  
DEC 29 2005  
of Correction

  
\_\_\_\_\_  
Mailer's Signature

Print Name: Jane M. Laliss

EV683300497US

Dorsey &amp; Whitney LLP

Tel: 303-629-3400  
Fax: 303-629-3450

JAN 04 2006

JAN 04 2006



Attorney Docket No. 2100/US/2  
Express Mail Label No. EV 683300497 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant	: Wagner et al.	Patent No.	: 6,971,433 B2
Appln. No.	: 10/645,264	Issue Date	: December 6, 2005
Filed	: August 20, 2003	Confirmation No.	: 7339
Title	: AUTOMATIC RETRACTABLE AWNING	Group Art Unit	: 3634
		Examiner	: Purol, David M.

**REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant hereby requests a Certificate of Correction under 37 C.F.R. § 1.322 be issued for the above patent, in accordance with the attached request.

The Patent Office has omitted the D'Azzo reference (US2,567,424) from the face of the issued patent. The reference was submitted to the Office on December 14, 2004 and a Supplemental Notice of Allowability with the Examiner's initialed copy of the originally submitted Form PTO/SB/08a was mailed on October 24, 2005. A copy of the Supplemental Notice of Allowability is enclosed.

The Patent has also printed claim 9 in the patent. Claim 9 was cancelled in a Response to Office Action dated November 11, 2004. A copy of the Response is also enclosed.

Lastly, the Patent Office has made a typographical error in claim 6, in that "endof" should be two words "end of".

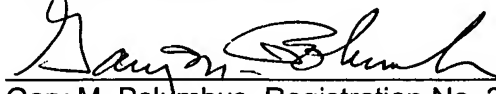
All errors sought to be corrected were made by the Patent Office. Therefore, the Assignee believes no fee is due with this filing. However, should any fees or petitions be required, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 as necessary.

JAN 04 2006

Should the Examiner have any questions, please contact the undersigned attorney.

Dated: Dec. 22, 2005

Respectfully submitted,

  
\_\_\_\_\_  
Gary M. Polumbus, Registration No. 25,364

USPTO Customer No. 20686

DORSEY & WHITNEY LLP  
370 Seventeenth Street, Suite 4700  
Denver, Colorado 80202-5647  
Tel: 303-629-3400  
Fax: 303-629-3450

JAN 04 2006

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**CERTIFICATE OF CORRECTION**

**PATENT NO.** : 6,971,433 B2  
**ISSUE DATE** : December 6, 2005  
**INVENTOR(S)** : Robert Wagner and Garret Mauldin

**It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:**

On the cover page, under References Cited, insert --2,567,424 11/1951 D'Azzo--.

In column 11, at line 43, delete "endof" and insert --end of--.

In column 11, at line 50, delete "9. The awning of claim 8 wherein each of said support structures includes a vertical mounting rail on said support surface and wherein said battery is mounted in an associated vertical rail."

Mailing address of Sender:

Patent No. 6,971,433 B2

Dorsey & Whitney LLP  
Republic Plaza Building, Suite 4700  
370 Seventeenth Street  
Denver, CO 80202-5647  
Phone: (303) 629-3400  
Fax: (303) 629-3450  
USPTO Customer No.: 20686

**JAN 04 2006**



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,264	08/20/2003	Robert Wagner	2100/US/2	7339

20686 7590 10/24/2005

DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER

PUROL, DAVID M

ART UNIT PAPER NUMBER

3634

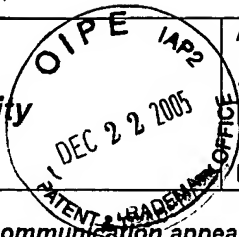
DATE MAILED: 10/24/2005



Please find below and/or attached an Office communication concerning this application or proceeding.

JAN 04 2005

**Supplemental  
Notice of Allowability**



Application No.

10/645,264

Examiner

David M. Purol

Applicant(s)

WAGNER ET AL.

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the IDS filed on December 23, 2004.
2. ☐ The allowed claim(s) is/are \_\_\_\_\_.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 12232004
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
David M. Purol  
Primary Examiner  
Art Unit: 3634

JAN 04 2005

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE (Modified) PATENT AND TRADEMARK OFFICE		ATTY. DOCKET NO. 2100/US/2	APPLN. NO. 10/645,264
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use several sheets if necessary)		APPLICANT: Wagner et al.	
		FILING DATE August 20, 2003	ART UNIT 3634

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
<del>DA</del>	1.	2,567,424	11/11/1951	D'Azzo	—	—	

## U.S. PUBLICATION DOCUMENTS

EXAMINER INITIAL		PUBLICATION NUMBER	PUBLICATION DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE

## FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

EXAMINER INITIAL		DOCUMENT NUMBER	PUBLISHED DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER INITIAL	
EXAMINER <i>David Pinal</i>	DATE CONSIDERED <i>10-18-05</i>

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



**DORSEY**  
DORSEY & WHITNEY LLP

## FAX COVER SHEET

The information contained in this facsimile message, if a client of this firm is a named addressee, or the message is otherwise intended for a client, is presumptively legally privileged and confidential information. If you are not a named addressee, or if there is any reason to believe that you may have received this message in error, (1) do not read the message below; (2) do not distribute or copy this facsimile; and (3) please immediately call us collect at the number of the sender below.

DATE:	November 11, 2004	TOTAL # OF PAGES: (INCLUDING THIS COVER SHEET)	8
TO:	Examiner David M. Purol	FAX #:	1-703-872-9306
FIRM NAME:	USPTO/TC 3634	PHONE #:	1-703-308-2168
FROM:	Gary M. Polumbus	FAX #:	(303) 629-3450
PHONE #:	(303) 628-1500	EMAIL:	polumbus.gary@dorsey.com

### COMMENTS:

RESPONSE TO OFFICE ACTION

Appl. No. 10/645,264

Confirmation No. 7339

Due: November 20, 2004

ORIGINAL WILL BE SENT VIA: ☐ MAIL ☐ E-MAIL ☐ MESSENGER ☐ AIR COURIER ☒ WILL NOT BE SENT

PLEASE CONTACT DONNA CARRERA AT (303) 628-1508 IF THIS TRANSMISSION IS INCOMPLETE OR CANNOT BE READ.

REFERENCE # 3707/443665-73

DORSEY & WHITNEY LLP · WWW.DORSEY.COM · T 303.629.3400 · F 303.629.3450  
REPUBLIC PLAZA BUILDING · SUITE 4700 · 370 SEVENTEENTH STREET · DENVER, COLORADO 80202-5647

USA CANADA EUROPE ASIA

FILED 0 4 2005



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/645,264 Confirmation No. 7339  
Applicant : Robert Wagner et al.  
Filed : August 20, 2003  
TC/AU : 3634  
Examiner : David M. Purol  
Docket No. : 2100/US/2  
Customer No.: 20686  
For : AUTOMATIC RETRACTABLE AWNING

**CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)**

I hereby certify that this paper or fee is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 703-872-9306) on November 11, 2004.

Name: Donna Carrera

Signature: *Donna Carrera*

**RESPONSE TO OFFICE ACTION**

Dear Sir:

In response to the Office communication mailed August 20, 2004, please consider the following amendments and remarks.

A current listing of the claims begins on page 2.

Remarks begin on page 5.

JAN 04 2006

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1. (currently amended) A retractable awning for mounting on a support surface, said awning comprising in combination:

an awning sheet with inner and outer edges and wherein the outer edge is movable toward and away from said support surface and said inner edge is operatively secured to the support surface,

a roll bar secured to one of said inner and outer edges and about which the awning sheet can be wrapped and unwrapped,

a pair of scissors type support structures anchored to said support surface at one end and operatively to opposite ends of said outer edge of said awning sheet at another end and adapted to extend away from said support surface in an extended position of said awning and be adjacent to the support surface in a retracted position of the awning, said scissors-type support structures each including a pair of arms operatively secured to said support surface, and a pair of vertical guide members secured to said support surface with one of said arms being movably supported on said guide member.

2. (original) The awning of claim 1 wherein at least one of said support structures includes a gas spring operatively anchored to said support surface and biasing the associated support structure away from said support surface.

3. (original) The awning of claim 2 wherein said support structures include two pair of parallel arms with at least one of said arms being adjustable in length.

4. (original) The awning of claim 3 wherein said roll bar is secured to the outer edge of said awning sheet and an outer end of said support structures are operatively connected to opposite ends of said roll bar.

5. (original) The awning of claim 4 wherein the opposite ends of said roll bar are connected to the outer ends of said support structure with a universal mounting system.

6. (original) The awning of claim 5 wherein said universal mounting system includes a mounting shaft supported in a loose fit spacer system between an associated end of the roll bar and the outer end of the associated support structure.

7. (original) The awning of claim 4 further including a motor mounted on at least one end of said roll bar to selectively rotate the roll bar about its longitudinal axis.

8. (original) The awning of claim 7 wherein at least one of said support structures includes a battery for powering said motor.

JAN 04 2006

JAN 04 2006

9. (canceled) The awning of claim 8 wherein each of said support structures includes a vertical mounting rail on said support surface and wherein said battery is mounted in an associated vertical rail.

10. (currently amended) The awning of claim ~~[[3]]~~ 13 wherein each support structure includes an inner brace arm having an inner end pivotally connected to said support surface, an outer brace arm having an inner end pivotally connected to an outer end of said inner brace arm and an outer end operatively connected to one end of said roll bar, an extendable brace arm vertically slidably connected to said support surface at an inner end and having an outer end, an auxiliary brace arm having an inner end pivotally connected to said outer end of the extendable brace arm and an outer end pivotally connected to said outer brace arm at an intermediate location along the length of the outer brace arm.

11. (original) The awning of claim 10 wherein said gas spring has an inner end anchored to said support surface and an outer end connected to the inner end of said outer brace arm.

12. (original) The awning of claim 1 wherein said roll bar is operatively connected to said another end of said support structures and further including gear housings interconnecting the other end of said support structures to an associated end of said roll bar, said support structure having a longitudinal axis when retracted and wherein said gear housing is laterally offset from said longitudinal axis.

13. (new) A retractable awning for mounting on a support surface, said awning comprising in combination:

an awning sheet with inner and outer edges and wherein the outer edge is movable toward and away from said support surface and said inner edge is operatively secured to the support surface, a roll bar secured to one of said inner and outer edges and about which the awning sheet can be wrapped and unwrapped, a pair of scissors-type support structures anchored to said support surface at one end and operatively to opposite ends of said outer edge of said awning sheet at another end and adapted to extend away from said support surface in an extended position of said awning and be adjacent to the support surface in a retracted position of the awning,

wherein at least one of said support structures includes a gas spring operatively anchored to said support surface and biasing the support structure away from said support surface,

wherein said support structures include two pair of parallel arms with at least one of said arms being adjustable in length,

wherein said roll bar is secured to the outer edge of said awning sheet and an outer end of said support structures are operatively connected to opposite ends of said roll bar,

further including a motor mounted on at least one end of said roll bar to selectively rotate the roll bar about its longitudinal axis and wherein at least one of said support structures includes a battery for powering said motor, and

wherein each of said support structures includes a vertical mounting rail on said support surface and wherein said battery is mounted in an associated vertical rail.

JAN 04 2006

## REMARKS

In the aforementioned Office communication, each of claims 1-8 and 12 was rejected under 35 U.S.C. 102(b) as being clearly anticipated by the patent to Thompson et al. Claims 9-11 were objected to as being dependent upon a rejected base claim but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 9 has been canceled and has been rewritten in independent form as new claim 13 so as to include all of the limitations of the base claim and any intervening claims. Claim 10 has been amended to depend from new claim 13 so that each of claims 13, 10, and 11 are now felt to be in allowable form. Claim 1, upon which each of claims 2-8 and 12 are directly or indirectly dependent, has been amended herein to be patentably distinguishable from the prior art as will be pointed out hereafter.

As will be appreciated from the prior art cited by the examiner, retractable awnings have been structured in many different arrangements for various purposes with some structures simply including pivotally interconnected arms and others including scissors-type linkage. Further, in some structures, the support arms for the awning extend downwardly from the outer edge of the awning sheet for connection to a relatively low location on the support structure particularly in settings where the low mounting of such support arms is not of concern. In other awnings, it is important that the support structure be at an elevated location so that people can walk beneath the awning without interference from the support structure. The present invention falls in the later category so that when the awning is extended, the support structure, which is of the scissors type, is disposed relatively high on the support surface and immediately

beneath the awning sheet. Applicant has been able to build such an awning by utilizing the strength acquired from the scissors-type extendable arms and further by providing a vertical guide member on the support surface in which an innermost end of one of the scissors arms can move vertically during extension and retraction of the awning. While the provision of such guide members in awnings in and of itself is not novel, the use of such a guide member with a scissors-type awning is not shown or suggested in the prior art and the unique mounting structure for the awning of the present invention is felt to have obtained many desirable features as a consequence.

The primary reference to Thompson et al., relied upon by the examiner in the original rejection of the claims, discloses a retractable awning but it does not utilize a guide rail. As mentioned previously, guide rails per se are not new to the awning industry as evidenced by the awnings of Thoms, Girton et al., and Davenport. It will be appreciated, however, that none of these awnings utilizes a scissors-type support system and particularly a scissors-type system wherein one of the scissors arms that is operatively secured to the support surface moves along the guide member.

Independent claim 1 upon which claims 2-8 and 12 are directly or indirectly dependent has been amended herein to state that the scissors-type support structure in the awning of the present invention includes a pair of arms operatively secured to the support surface and a pair of vertical guide members secured to the support surface with one of the arms being movably supported on the guide member. It is felt this amendment to claim 1 renders the subject matter thereof patentably distinct from the prior art. The dependency of claims 2-8 and 12 on claim 1 render these claims allowable as well and further due to the fact that the dependent claims recite features

Appl. No. 10/645,264  
Amdt. dated November 11, 2004  
Reply to Office Action of August 20, 2004

themselves which further distinguish the awning from the prior art such as the use of a gas spring, batteries associated with the roller for rotating the roller, etc.

There having been no other objections or rejections to the application, it is felt it is now in condition for allowance and such action is courteously requested.

Dated this Nov. 11, 2004.

Respectfully submitted,



Gary M. Polumbus, Reg. No. 25,364  
USPTO Customer No. 20686  
Tel: (303) 628-1500  
Fax: (303) 629-3450  
e-mail: polumbus.gary@dorsey.com

GMP/dtc

JAN 04 2006